



# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/523,338	03/10/2000	Eric P. Plourde	769-254	5232

7590

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PJITNEY, HARDIN, KIPP & SZUCH LLP  
685 THIRD AVENUE  
New York, NY 10017-4059

EXAMINER

KIM, EUGENE LEE

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 05/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



221

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER
	9

DATE MAILED

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

### ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

a) ☒ is extended to run \_\_\_\_\_ or continues to run 3 months from the date of the final rejection

b) ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☐ Applicant's response to the final rejection, filed \_\_\_\_\_ has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:

a. ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.

b. ☐ They raise new issues that would require further consideration and/or search. (See Note).

c. ☐ They raise the issue of new matter. (See Note).

d. ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.

e. ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☐ Upon the filing an appeal, the proposed amendment ☐ will be entered ☐ will not be entered and the status of the claims will be as follows:

Claims allowed: \_\_\_\_\_

Claims objected to: \_\_\_\_\_

Claims rejected: \_\_\_\_\_

However;

☐ Applicant's response has overcome the following rejection(s): \_\_\_\_\_

4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because the claims are written in a broad format. Examiner notes that references do not have to be bodily incorporated. Examiner maintains that GIelli has apertures that may be formed for ventilation purposes (col 4 lines 35+)

5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☐ Other

*Eugene Kim*  
EUGENE KIM  
PRIMARY EXAMINER

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Art Unit: 3727

*Election/Restriction*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-5 and 11, drawn to a method for providing vent apertures to web component of a plastic bag, classified in class 493, subclass unknown.
  - II. Claims 6-10, drawn to a plastic bag, classified in class 383, subclass 103.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process such as forming the apertures by melting through the web component instead of cutting.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with applicant's representative, Mr. Levy, on 8/24/00 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-5 and 11. Affirmation of this election must be made by applicant in replying to this Office action.

Art Unit: 3727

Claims 6-10 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).